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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,886

10/29/2003

Andrew B. Lederman

050508-1110

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03/26/2008

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EXAMINER

BACHMAN, LINDSEY MICHELLE

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

03/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,886

Applicant(s)

LEDERMAN, ANDREW B.

Examiner

LINDSEY BACHMAN

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-14 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-14 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

The oath/declaration filed 29 October 2003 is accepted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-3, 5-14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunken (EP 0 615 726 A1) in view of Matsutani, et al. (US Patent 4,935,029).

Claims 1, 2, 8, 9, 10, 11, 12, 14: Brunken'726 discloses a needle with a curved cylindrical shaft (2, Figure 1) and a puncture tip (6) at one end of the curve (see Figure 1) of the shaft (2). All needles have a front surface and rear

surface that extend side by side along the length of the shaft. The entire shaft is marked with a visual indicator (page 2, lines 29-34).

Brunken'726 does not teach that the front and rear surface are differentiated with a visual indicator.

Matsutani'029 discloses a suture needle (Figure 16) that contains a shaft (7) having a front surface (I) and a rear surface (O) (see Figures 12-15) that extend side by side along at least a portion of the shaft (see band 4 in Figure 16). The portions are marked with a visual indicator (4) that can differentiate the front and rear portions of the shaft from one another (columns 10-11). The device also contains a puncture tip at its distal end (see Figure 16). In light of the teaching by Matsutani'029, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the visual indicators on the needle taught by Brunken'726 in order to identify the front and rear surface of the needle, as taught by Matsutani'029. Further, the claim would have been obvious because the technique for improving a suture needles was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teachings by Matsutani'029, for improvement in other situations.

Claims 3, 5-7, 13: Brunken'726 teaches a visual indicator of bare or untreated metal, which is a first color, and another visual a visual indicator that is matte-finished or colored, which is a second color (page 2, lines 29-34).

Claim 20: Brunken'726 discloses a method of making a suture needle that includes providing a suture needle (page 3, lines 5-9) and marking at least a portion of the needle with a visual indicator (page 3, lines 14-17). The portion

Art Unit: 3734

must extend at least partially along a length of the needle. The inside curve of the needle is marked with a visual indicator (see Figure 1 and page 2, lines 29-34).

Brunken'726 does not teach that the front and rear surface are differentiated with a visual indicator.

Matsutani'029 discloses a suture needle (Figure 16) that contains a shaft (7) having a front surface (I) and a rear surface (O) (see Figures 12-15) that extend side by side along at least a portion of the shaft (see band 4 in Figure 16). The portions are marked with a visual indicator (4) that can differentiate the front and rear portions of the shaft from one another (columns 10-11). The device also contains a puncture tip at its distal end (see Figure 16). In light of the teaching by Matsutani'029, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the visual indicators on the needle taught by Brunken'726 in order to identify the front and rear surface of the needle, as taught by Matsutani'029. Further, the claim would have been obvious because the technique for improving a suture needles was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teachings by Matsutani'029, for improvement in other situations.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5-14 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LINDSEY BACHMAN** whose telephone number is (571)272-6208. The examiner can normally be reached on Monday to Thursday 7:30 am to 5 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

/L. B./
Examiner, Art Unit 3734